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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAMOUS D. NETTLES,
 Plaintiff,
 v.
LOPEZ,
 Defendant.

Case No. 1:11-cv-01201-AWI-JLT (PC)
ORDER TO SHOW CAUSE WHY THE
ACTION SHOULD NOT BE DISMISSED
FOR PLAINTIFF’S FAILURE TO
COMPLY WITH THE COURT’S ORDER
(Docs. 67, 70)
21-DAY DEADLINE

Plaintiff filed this action as a petition for *writ of habeas corpus* under 28 U.S.C. § 2254. (Doc. 1.) The Court granted the respondent’s motion to dismiss and Plaintiff appealed. On July 26, 2016, the Ninth Circuit Court of Appeals agreed with this Court that this action cannot proceed as a petition for *writ of habeas corpus* because success of the merits would not necessarily impact the length of the petitioner’s sentence. (Doc. 53.) However, the Court reversed the judgment and remanded the matter to allow it to be re-characterized as an action under 42. U.S.C. § 1983, if after advice of the risks and benefits, Plaintiff wished to proceed in that manner. (*Id.*)

The Court provided Plaintiff this advice and he chose to have the action re-characterized under § 1983. (Docs. 55, 62, 64.) On May 5, 2017, the Court issued an order dismissing the action with leave to amend which provided the pleading requirements and legal standards that appeared most applicable based on the factual allegations gleaned from Plaintiff’s petition under § 2254. (Doc. 67.) Plaintiff requested an extension of time to file an amended complaint and was

1 granted 30 days. (Docs. 68, 69, 70.) More than 30 days have passed and Plaintiff has not filed an
2 amended complaint or otherwise responded to the Court’s Order.

3 The Local Rules, corresponding with Fed. R. Civ. P. 11, provide, “[f]ailure of counsel or
4 of a party to comply with . . . any order of the Court may be grounds for the imposition by the
5 Court of any and all sanctions . . . within the inherent power of the Court.” Local Rule 110.
6 “District courts have inherent power to control their dockets,” and in exercising that power, a court
7 may impose sanctions, including dismissal of an action. *Thompson v. Housing Authority of Los*
8 *Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice, based
9 on a party’s failure to prosecute an action or failure to obey a court order, or failure to comply with
10 local rules. *See, e.g. Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
11 failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal*
12 *Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order);
13 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and
14 to comply with local rules).

15 Accordingly, Plaintiff is **ORDERED** to show cause within 21 days of the date of service
16 of this order why the action should not be dismissed for both his failure to state a claim under §
17 1983 and to comply with the Court’s order; alternatively, within that same time, Plaintiff may file
18 an amended complaint, or a notice of voluntary dismissal.

19 IT IS SO ORDERED.

20 Dated: July 21, 2017

21 /s/ Jennifer L. Thurston
22 UNITED STATES MAGISTRATE JUDGE

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